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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/014,422	01/27/1998	MASAKI IWAMOTO	1344.1001/JD	4490

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EXAMINER

HUYNH, CONG LAC T

ART UNIT	PAPER NUMBER
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2178

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/014,422

Applicant(s)

IWAMOTO ET AL.

Examiner

Cong-Lac Huynh

Art Unit

2178

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-8, 10-19, 21-26.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


STEPHEN S. HONG
PRIMARY EXAMINER

Applicants amended the claims, specially claim 1, by deleting "automatically at random" and adding "automatically" and "a random sampling of" (data from a database).

About the meaning of the claim, Examiner does not see any change. The "random sampling" of data from a database is the same as a data taken or selected at random from a database.

Applicants also argue that though Krawchuk uses the wording "random selection" within "to allow random selection within a file" (col 56, line 11), the "random selection" in Krawchuk refers to retrieving Bricks non-sequentially, based on the Brick numbers and an index file correlating Brick numbers to the physical files where the Bricks reside. Therefore, the "random selection" in Krawchuk is used to describe the selection of Bricks in non-sequential order, rather than the random sampling of data retrieved from the database in the present invention.

Examiner respectfully disagrees.

Krawchuk discloses that "the Bricks are arranged sequentially by Brick numbers to allow random selection within the file." That means a Brick can be selected at random in said arranged sequence. That also suggests retrieving the selected Brick. Examiner does not see why the "random selection" means the selection of Bricks in non-sequential order.

According to Krawchuk, the Bricks refer to a database in memory (col 55, lines 25-47). Therefore, selecting randomly a brick in the Brick arranged sequence is considered equivalent to extracting a random sampling (or a data randomly) from the database.